IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Billy G. Moon
Serial No.:	09/864,750
Filing Date:	May 24, 2001
Examiner:	Yasin M. Barqadle
Group Art Unit:	2153
Confirmation No.:	1922
Title:	METHOD AND APPARATUS FOR REGISTERING A MOBILE OBJECT ON A FOREIGN NETWORK

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

REQUEST FOR PRE-APPEAL BRIEF REVIEW

In response to the Advisory Action mailed May 10, 2006, Applicant respectfully requests a Pre-Appeal Brief review of this Application so that the rejection of the claims and the objections to the Application can be reconsidered prior to submission of an Appeal Brief.

REMARKS

This Request for Pre-Appeal Brief Review is being filed in accordance with the provisions set forth in the Official Gazette Notices of July 12, 2005 and January 10, 2006. Pursuant to the Official Gazette Notices, this Request for Pre-Appeal Brief Review is being filed concurrently with a Notice of Appeal. Applicant respectfully requests reconsideration of the Application in light of the remarks set forth below.

Claims 1-38 currently stand rejected under 35 U.S.C. §103(a) as being unpatentable over Xu, et al. in view of Salminen and further in view of Jagannathan, et al. In the prosecution of the present Application, the Examiner's rejections and assertions contain clear errors of law, including a failure to establish a prima facie case of obviousness. To assist the Panel in the review of this Request for Pre-Appeal Brief Review, Applicant submits the following brief summary for consideration.

In the Advisory Action of May 10, 2006 and the Final Action of February 15, 2006, the Examiner indicates that the Xu, et al. patent discloses a mobile object, being executable computer language code, being moved from a home network to a foreign network for execution in response to unavailable resources at the home network. The Examiner is equating a wireless mobile node of the Xu, et al. patent to the claimed executable mobile object. However, the wireless mobile node of the Xu, et al. patent is not analogous to an executable mobile object. The Xu, et al. patent is directed to a registering of a wireless mobile node in a telecommunication network. Similarly, the Salminen patent is directed to roaming of a wireless device in a mobile radio communication system. These references are hardly in the field of remote mobile object execution techniques and are not remotely related to the problem of executing a mobile object in a

computer system when resources are not available at the home computing network of the mobile object.

Most notable of the legal errors present in the examination of the Application is a failure of the Final Office Action of February 15, 2006 to establish a prima facie case of obviousness of the claims in the Application rejected under 35 U.S.C. §103(a). There has been no mention of the three criteria for a prima facie case of obviousness as spelled out in M.P.E.P. §2143. The Examiner has not cited any language from the prior art that would suggest that the Xu, et al. patent can be combined in any manner with the Salminen patent and the Jagannathan, et al. patent. The Examiner only provides a baseless subjective and conclusory "it would have been obvious" statement for combining the Xu, et al., Salminen, and Jagannathan, et al. patents without providing any objective reasoning or citing any evidence of record to support such a position. Moreover, the Examiner has not shown that the Xu, et al., Salminen, and Jagannathan, et al. patents are analogous to the claimed invention or each other. The Examiner has not provided any reasons how the proposed combination of the Xu, et al., the Salminen, and the Jagannathan, et al. paper would have any expectation of success let alone a reasonable expectation of success. Moreover, the Examiner has failed to show that the proposed combination would even work for its intended purpose according to the claimed invention.

As for teaching the claimed invention, Independent Claims 1, 12, 17, 26, and 36 recite in general the ability to move a mobile object from a home network to a foreign network in response to unavailable resources at the home network and execute the mobile object on a first virtual machine at a first router on the foreign network, where the mobile object is computer language code operable to be executed by or executed on the home or foreign network. By contrast, the Xu,

et al. patent merely provides a capability for a mobile wireless device to communicate with its home network remotely through a foreign network. The mobile node of the Xu, et al. patent is a wireless device, such as a laptop computer or PDA, that can communicate data with a target host despite not being in its home network. Data communications in the Xu, et al. patent are facilitated through agents, i.e. routers, associated with the laptop computer's home telecommunication network and the foreign telecommunication network where the laptop currently resides. The mobile wireless node of the Xu, et al. patent is not remotely equivalent to the mobile object of the claimed invention, which is software code capable of being executed to perform a function. The Examiner also uses the Salminen patent in combination with the Xu, et al. patent. However, the Salminen patent is similarly related to mobile wireless stations roaming from one area to another with no disclosure concerning objects in computer language code or their mobility as provided in the claimed invention.

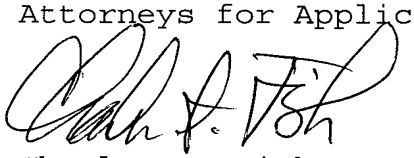
The Examiner attempts to overcome the deficiencies of the Xu, et al. and Salminen patents by citing the Jagannathan, et al. patent in a proposed combination therewith. However, the Jagannathan, et al. patent is directed to a distributed agent software system in a computer network. The Examiner is attempting to combine patents in separate fields of technology and in separate technical environments that are solving completely different problems in their respective area of technology. A person of skill in the art would hardly consider the mobile wireless devices in the telecommunications networks of the Xu, et al. and Salminen patents in relation to the mobile objects of the claimed invention executing a desired service let alone consider the Jagannathan, et al. patent and its distributed agents in a computer network with the mobile wireless devices of the Xu, et al. and Salminen patents.

CONCLUSION

Applicant has now made an earnest attempt to place this Application in condition for allowance. For the foregoing reasons and for other apparent reasons, Applicant respectfully requests allowance of all pending claims.

The Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorneys for Applicant



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